IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

WEDNESDAY, THE 20TH JUNE 2007 / 30TH JYAISHTA 1929

WP(C).No. 18818 of 2007(M)

PETITIONERS:

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1. KOSHY JACOB,
   ASSISTANT ENGINEER, PROJECT SECTION,
   KERALA WATER AUTHORITY, MEDICAL COLLEGE,KOTTAYAM.

2. SURESH BABU T.,
   ASSISTANT ENGINEER, KERALA WATER AUTHORITY,
   ERNAKULAM.

3. CHANDRA BABU K.,
   ASSISTANT ENGINEER, KERALA WATER AUTHORITY,
   WATER WORKS SECTION NO.1, PALAYAM,
   THIRUVANANTHAPURAM.

4. SUSAN JOHN,
   ASSISTANT ENGINEER, KWA, E & M UNIT,
   JALA BHAVAN, THIRUVANANTHAPURAM.

5. JAYALEKSHMI G.,
   ASSISTANT ENGINEER, TRAINING CENTRE, KWA,
   JALA BHAVAN, THIRUVANANTHAPURAM.

6. JOSEPH M.A.,
   ASSISTANT ENGINEER, QUALITY CONTROL SECTION,
   ALAPPUZHA.

7. SASIDHARAN PILLAI K.,
   ASSISTANT ENGINEER, P.H.SECTION, PULLAD,THIRUVALLA

BY ADV. SRI.P.B.SAHASRANAMAN
SRI.K.JAGADEESH
SRI.T.S.HARIKUMAR

RESPONDENTS:
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1. KERALA WATER AUTHORITY,
   REPRESENTED BY ITS MANAGING DIRECTOR,
   JALA BHAVAN, THIRUVANANTHAPURAM-695 033.

2. THE CHIEF ENGINEER (HRD & GL),
   KERALA WATER AUTHORITY, JALA BHAVAN,
   THIRUVANANTHAPURAM.

3. V.K. PRADEEP,
   ASSISTANT EXECUTIVE ENGINEER, KERALA WATER
   AUTHORITY, W.S. SUB DIVISION, N.PARUR.

4. SUNILA S. BEHANNAN,
   ASSISTANT EXECUTIVE ENGINEER, KERALA WATER
   AUTHORITY, WATER WORKS (S) DIVISION,
   SEW SUB DIVISION, KOCHI.

5. M.LEKSHMY,
   ASSISTANT EXECUTIVE ENGINEER, WATER WORKS (S),
   CHIEF ENGINEER (JBIC), THIRUVANANTHAPURAM.

6. SURAJA NAIR,
   ASSISTANT EXECUTIVE ENGINEER, KERALA STATE
   ELECTRICITY BOARD, PH SUB DIVISION, KANNUR.

BY ADV. J.KRISHNAKUMAR, SC, KWA

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. BALAKRISHNAN NAIR, J.

W.P.(C) No.18818 of 2007 (M)

Dated this the 20th June, 2007.

JUDGMENT

The petitioners were Draftsmen Grade I, working under the Kerala Water Authority. They were promoted to the post of Assistant Engineers provisionally under Exts.P1 and P2 orders. The said orders stated that they were being promoted to the 6% quota set apart for departmental hands in the post of Assistant Engineers, to be recruited through the Public Service Commission. Ext.P1 order stipulated that the promotion was subject to the condition that promotees would be reverted to their original posts as and when Public Service Commission hands reports for duty. The Water Authority had also obtained an undertaking from the petitioners stating their agreement to be reverted back to their parent post, when Public Service Commission hands reports for duty. The order further stated that the promotion would not confer any right on the promotees, except the usual pay and allowances for the promoted post. Subject to the above conditions, the petitioners were promoted. They accepted the promotions also, agreeing to such conditions. The Public Service

Commission had, in the meantime, published the rank list, which included the names of the petitioners also. They were included in the list, to be appointed against the quota set apart for departmental hands. On their being advised by the Public Service Commission, on 1.2.2002, they were appointed by Ext.P3 order dated 5.10.2002. From the rank list published by the Public Service Commission, open market candidates were also advised.

2. While so, some of the Assistant Engineers, who were appointed to that post on the advice of the Public Service Commission, from the open market, were promoted as Assistant Executive Engineers by Ext.P4 order dated 31.5.2007. According to the petitioners, they have been working as Assistant Engineers even prior to the appointment of open market candidates, on the strength of their provisional promotion and, therefore, they should have been preferred for the promotion as Asst. Executive Engineers to those who were promoted under Ext.P4. So, this writ petition is filed, seeking to quash Ext.P4, and also for promoting them as Assistant Executive Engineers. Their claim is founded on the ground that they should be

treated as seniors in the cadre of Assistant Engineers, in the light of their provisional promotion in 2000.

3. Provisional promotees cannot claim seniority from the date of their provisional promotion. They can claim seniority only from the date of first effective advice. So, their claim for seniority on the ground of provisional promotion is plainly untenable. If the petitioners have a case that going by the advice list they are seniors to the present promotees, they will be free to represent to the competent authority.

Subject to the above right, this writ petition is dismissed.

K. BALAKRISHNAN NAIR,
JUDGE.

vav.